

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

Criminal File No. 09-172 (MJD/SRN)

(17) WINSTON NGUYEN,

Defendant.

LeeAnn K. Bell, Assistant United States Attorney, Counsel for Plaintiff.

Matthew D. Forsgren and Ankoor Bagchi, Briggs & Morgan, PA, Counsel for Defendant Winston Nguyen.

The above-entitled matter also comes before the Court upon the Report and Recommendation of United States Magistrate Judge Susan Richard Nelson dated October 13, 2010. [Docket No. 678] Defendant Winston Nguyen filed objections to the Report and Recommendation. In his objections, Nguyen raises an entirely new argument regarding the propriety of the trash searches that formed one of the bases for the search warrant at issue. Nguyen did not make a motion to suppress the evidence seized during the trash searches. There is no

indication that he raised this issue during the suppression hearing before the Magistrate Judge. The Court concludes that Defendant has waived this issue by raising it, for the first time, in his objection to the Report and Recommendation. Moreover, there is no evidence to indicate that the trash searches were, in fact, invalid. The Court further rejects Defendant's other objections.

Pursuant to statute, the Court has conducted a de novo review upon the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge Susan Richard Nelson dated October 13, 2010.

Accordingly, based upon the files, records, and proceedings herein, **IT IS
HEREBY ORDERED:**

1. The Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge Susan Richard Nelson dated October 13, 2010 [Docket No. 678].
2. Defendant Winston Nguyen's Motion to Suppress Evidence Obtained as a Result of Search and Seizure [Docket No. 597] is **DENIED**.

Dated: December 13, 2010

s/ Michael J. Davis

Michael J. Davis
Chief Judge
United States District Court